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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

WESTERN DIVISION

ANDRE NESBIT

Plaintiff,

vs.

Sunrise Restaurants, EDD

Defendants,

Case No. CV23-2822-SVW(MAAx)

Amount: \$56,000,000

Complaint For:

- 1) Intentional Infliction of Severe Emotional Distress
- 2) Libel
- 3) Declaratory Relief
- 4) Fraudulent Misrepresentation
- 5) Conspiracy to Violate Civil Rights
- 6) Injunctive Relief

Complaint

COMPLAINT

General Allegations

1. Sunrise Restaurants is the plaintiff's former employer, and it is a current defendant in the plaintiff's state case, bearing case number 22STCV40976. During this case and after payments from the EDD, the defendant fraudulently misrepresented to the EDD that the plaintiff quit his position. This was done to interfere with the case, harass the plaintiff, and cause financial hardship, maliciously.
2. Furthermore, the EDD cutoff aid immediately and without warning. The EDD was a former defendant in the plaintiff's state case; however, the plaintiff removed the EDD upon filing an amendment complaint, removing the EDD as defendant, for they approved the plaintiff's unemployment claim. It seems that there was collaboration between the two parties, but the EDD set up a second interview. There was an initial interview already, and the EDD changed the plaintiff's phone number and address, so that he would miss the letter for an interview and miss the phone call. This was done without the plaintiff's consent or knowledge. It seems to be done in collaboration with Sunrise Restaurants to cause the plaintiff harm.

Parties

3. Sunrise Restaurants is the plaintiff's former employer, and it is a current defendant in the plaintiff's state case, bearing case number 22STCV40976.
4. EDD is the Employment Development Department of California and former defendant in state case, bearing case number 22STCV40976.

Jurisdiction

This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1332.

The dispute arises as a federal question because it involves the violation of a federal statute, 18 U.S. Code § 1038 and (42 U.S.C. S 1985 (3)).

This Court has supplemental jurisdiction over the pendent state law claims under 28 U.S.C. §1367(a).

The Court has the authority to grant declaratory relief pursuant to the

Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202. Federal Rules of Civil Procedure 57 and 65 authorize declaratory and injunctive relief in this matter.

Venue

5. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391, as it is where a substantial part of the events giving rise to the claim alleged in this complaint took place.

First Claim

**Fraudulent Misrepresentation (Sunrise Restaurants)
(Violation of 18 U.S. Code § 1038)**

1 Plaintiffs re-allege; incorporate by reference paragraphs 1-5 of the Complaint,
2 and allege:

- 3 6. The defendant fraudulently misrepresented facts to the EDD regarding the plaintiff's
4 termination from Sunrise restaurants. The Defendant, Sunrise Restaurant, presented to the
5 EDD that the plaintiff quit his job at Sunrise Restaurants; however, the plaintiff was
6 terminated based on misleading information.
7 7. As a direct and proximate result of the Defendant's Fraud, the Plaintiff has sustained the
8 damages as described below (i) Loss of Unemployment benefits (ii) Suspension of
9 Unemployment benefits (iii) ineligibility for Emergency EBT, due to pending
10 unemployment case (iv) Loss of income (v) starvation (vi) restitution in the amount of
11 \$1,000,000 (vii) Punitive Damages in the amount of \$ 1,000,000 (viii) cost incurred for this
12 action. (ix) Such other relief as the court considers proper.

13 **Second Claim (Sunrise Restaurants and EDD)**
14 **Conspiracy to Violate Civil Rights**
15 **(42 U.S.C. § 1985 (3), 51986, b1988)**

16 Plaintiffs re-allege; incorporate by reference paragraphs 1-7 of the Complaint,
17 and allege:

- 18 8. Defendants, Sunrise Restaurants and EDD, by their concerted actions reached an agreement or
19 meeting of the minds intended to accomplish an unlawful objective for the purpose of harming
20 Plaintiffs which resulted in damages, loss of unemployment, loss of income. Defendants had the
21 knowledge of the wrongs conspired to be done, as mentioned above, or were about to be
22 committed, and despite having the power to prevent or aid in preventing the commission of the
23 same, neglected or refused so to do, caused damages by such wrongful act, which Defendants by
24 reasonable diligence could have prevented injury to Plaintiffs.
25 9. As a direct and proximate result of Defendants' conspiratorial acts and failure to prevent
26 conspiracy, the Plaintiff sustained the damages as described below (i) Loss of Unemployment
27 benefits (ii) Suspension of Unemployment benefits (iii) ineligibility for Emergency EBT, due to
28 pending unemployment case (iv) Loss of income (v) starvation (vi) restitution in the amount of
\$1,000,000 (vii) Punitive Damages in the amount of \$ 1,000,000 (viii) cost incurred for this
action. (ix) Such other relief as the court considers proper.

Third Claim (Sunrise Restaurants)
Libel
(California Civil Code § 45)

Plaintiffs re-allege; incorporate by reference paragraphs 1-9 of the Complaint,
and allege:

10. The defendant fraudulently misrepresented facts to the EDD regarding the plaintiff's
termination from Sunrise restaurants. The Defendant, Sunrise Restaurant, presented to the
EDD that the plaintiff quit his job at Sunrise Restaurants; however, the plaintiff was
terminated based on misleading information.
11. As a direct and proximate result of the Defendant's Libel, the Plaintiff has sustained the
damages as described below (i) Loss of Unemployment benefits (ii) Suspension of
Unemployment benefits (iii) ineligibility for Emergency EBT, due to pending
unemployment case (iv) Loss of income (v) starvation (vi) restitution in the amount of

\$1,000,000 (vii) Punitive Damages in the amount of \$ 1,000,000 (viii) cost incurred for this action. (ix) Such other relief as the court considers proper.

**Fourth Claim (Sunrise Restaurants)
Intentional Infliction of Severe Emotional Distress**

Plaintiffs re-allege; incorporate by reference paragraphs 1-11 of the Complaint, and allege:

12. Plaintiffs suffered from severe emotional distress over a prolonged period from a variety of symptoms of headaches, insomnia, anxiety, fear, humiliation and starvation.
13. The Defendant's conduct was (1) outrageous and was intended to cause severe emotional distress. (2) Defendants acted with reckless disregard of the probability that Plaintiffs would suffer emotional distress, knowing that Plaintiffs were present and affected when the conduct occurred. (3) That Plaintiffs suffered severe emotional distress; and (4) Defendants' conduct was a substantial factor in causing Plaintiff's severe emotional distress. As a direct and proximate result of Defendants' acts, Plaintiffs suffered damages as described below.
14. As a direct and proximate result of the Defendant's Intentional Infliction of Severe Emotional Distress the Plaintiff has sustained the damages as described below (i) Loss of Unemployment benefits (ii) Suspension of Unemployment benefits (iii) ineligibility for Emergency EBT, due to pending unemployment case (iv) Loss of income (v) starvation (vi) restitution in the amount of \$1,000,000 (vii) Punitive Damages in the amount of \$ 1,000,000 (viii) cost incurred for this action. (ix) Such other relief as the court considers proper.

**Fifth Claim
Declaratory Relief (Sunrise Restaurants and EDD)**

Plaintiffs re-allege; incorporate by reference paragraphs 1-14 of the Complaint, and allege:

15. This action seeks declaratory relief pursuant to 28 U.S.C. S 2201 for the purpose of determining a question of actual controversy between Plaintiffs and Defendants. Plaintiffs are entitled to a declaratory judgment concerning Defendant's violation of 18 U.S. Code § 1038 and (42 U.S.C. S 1985 (3).

**Sixth Claim
Injunctive Relief(EDD)**

Plaintiffs re-allege; incorporate by reference paragraphs 1-15 of the Complaint, and allege:

16. Plaintiffs have no remedy at law, or otherwise for the harm done by Defendant and Plaintiffs have suffered and continues to suffer great and irreparable loss, damage, and injury as a proximate result of afore-mentioned acts and conduct of defendant for which Plaintiffs have no adequate remedy at law. Plaintiffs will continue to so suffer unless such acts and conduct of defendant is enjoined. It is more likely than not that Plaintiffs will prevail. Granting of permits would not be against public interest.
17. Plaintiff requests preliminary and permanent injunction commanding the EDD to pay the plaintiff his remaining EDD balance.

DEMAND FOR RELIEF

WHEREFORE, Plaintiffs respectfully request the court to grant the following relief:

1. Enter a declaratory judgment declaring that the Defendant, Sunrise Restaurants, violated statute 18 U.S. Code § 1038.

2. Enter a declaratory judgment declaring that the Defendant, EDD, violated statute 42 U.S.C. § 1985 (3).
3. Enter a preliminary and permanent injunction against the EDD, directing it to pay the plaintiff's remaining EDD balance.
5. For compensatory damages in the amount of \$6,000,000 (i) For Loss of income. (ii) Loss of future earnings (iii) Loss of future Employment prospects (iv) and Mental Anguish
6. For general damages for infliction of severe emotional distress.
7. For an award of punitive damages in an amount of 50 Million U.S. dollars.
8. For award of retained attorney fees, including litigation expenses and cost.
9. For such other and further relief deemed appropriate by the court.

Dated: April 11th, 2023

Respectfully Submitted

Andre Nesbit

Attorney Name